

In the Office Action, the pending claims were rejected under 35 USC 103 as being unpatentable over Ainsworth et al I (United States Patent No. 4,396,627) or Ainsworth et al II (United States Patent No. 4,478,849) taken with Howe et al, Larsen et al I (U.S. Patent No. 3,478,149) Larsen et al II (U.S. Patent No. 3,341,584) in view of Hester and Mortley. This rejection is traversed. As will be seen in more detail, the presently claimed invention would not have been obvious to one of ordinary skill in the art in view of Ainsworth et al I or Ainsworth et al II taken with Howe, Larsen I, Larsen II, Hester and Mortley.

Ainsworth I refers to secondary amines with anti-obesity and or antihyperglycemic activity. Contrary to the Examiner's assertion that "to modify Ainsworth I and II to make a

-blocker would be obvious", a person having ordinary skill in the art would not consider Ainsworth to make a Class III Antiarrhythmic agent, the activity possessed by the present compounds. This activity proceeds through an entirely different mechanism than that of -blockers. Moreover, Ainsworth I requires the presence of the hydroxy group on the first benzyl carbon and Ainsworth does not teach the substitution on the amino group in the presently claimed compounds. Thus, since the present compounds possess a surprising activity not suggested by Ainsworth I, the present invention would not have been obvious to a person of ordinary skill in the art in view of Ainsworth I.

In the Office Action, the pending claims were rejected under 35 USC 103 as unpatentable over Ainsworth et al II taken with Howe, Larsen I, Larsen II, Hester and Mortley. Since the Examiner is rejecting the present claims on the combined references, applicant will argue the combined references. In the first instance, it should be noted that the Examiner has

had to combine five references to render obvious the presently claimed invention. Four of these references are from totally different fields of art, i.e. α -blockers or sympathomimetic agents, with Hester being the only reference which refers to compounds having Class III antiarrhythmic activity. Such a combination of references is inappropriate and can only be derived by the impermissible use of hindsight. Even the compounds referred to in Hester are far removed from the presently claimed compounds. Hester's compounds contain only one phenyl ring and in those cases wherein n is 0, R₂ is hydrogen. This teaches away from the Examiner's assertion that Hester shows the interchangeability of hydrogen and hydroxy. Ainsworth II refers to similar compounds to Ainsworth I. Thus, the arguments presented in relation to Ainsworth I are also applicable herein. Larsen I and Larsen II require that the hydroxy substituent be present on the aryl moiety. Howe refers to compounds which require an amine or substituted amine on the phenyl group, an ether linkage between the phenyl group and the first carbon and a hydroxy substituent on the second carbon, none of which are present in the presently claimed invention. As noted, Hester teaches away from the interchangeability of hydrogen and hydroxy. Thus, the present claims would not have been obvious to one of ordinary skill in the art in view of Ainsworth II, Larsen I, Larsen II and Howe taken with Hester and Mortley.

Moreover, as can be seen from the attached Declaration of John E. Arrowsmith, the compounds of the Larsen I and Larsen II references are inferior Class III anti-arrhythmic activities to the compounds of the pending claims. As a further point, the compounds of Larsen which are arguably closest in structure to the compounds of the pending claims cannot be synthesized by

the procedures of the Larsen references. Consistent with the principles enunciated in In Re Hoeksema, 158 USPQ 596 (CCPA, 1968), such a references being non-enabling cannot render the compounds of the pending claims obvious.

In view of the foregoing arguments and attached Declaration, it is respectfully submitted that claims 1-5, 7-11, 13-17, 19-23, 25-29, 31-35, 37-41, 44-48, 50-59, are in a condition for allowance. Early allowance is respectfully solicited.

Respectfully submitted,

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